## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff

V.

Luis M. Benitez (3),

Defendant

Criminal No. 19-498 (MAJ)

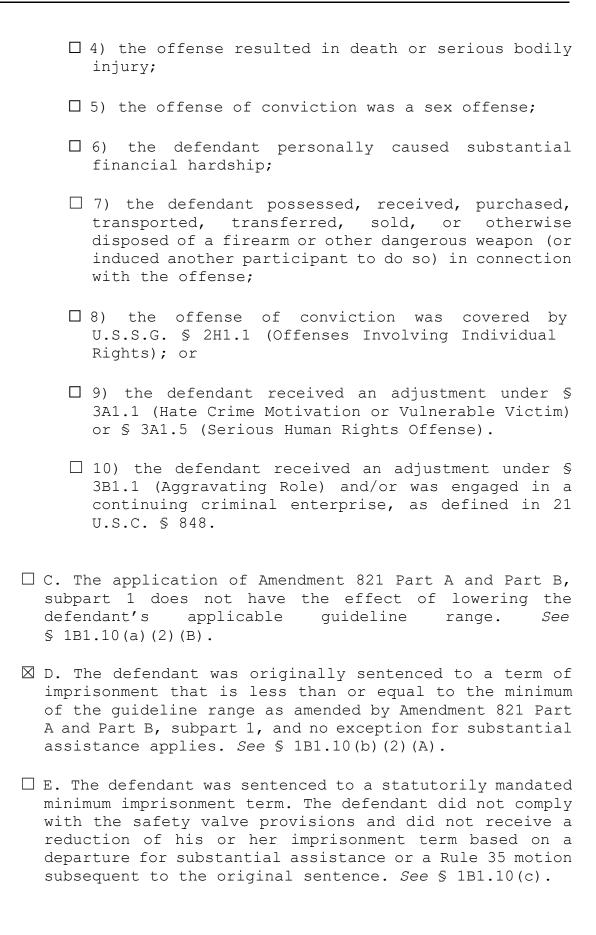
## MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION Re: Amendment 821

The below report and recommendation relates to an initial determination as to the defendant's eligibility for a sentencing reduction promulgated by the United States Sentencing Commission under Part A and Part B, Subpart 1 of Amendment 821 to Policy Statement § 1B1.10(d).

After careful review of the defendant's presentence report, charging document(s), plea agreement, plea supplement, judgment, and statement of reasons, I recommend that:

## □ The defendant is <u>not</u> eligible for a sentence reduction based on the following factor(s):

- □ A. The guidelines range that applied in the defendant's case was not determined by U.S.S.G. § 4A1.1(d) or defendant's status as a zero-point offender under Chapter 4, Part A.
- $\square$  B. The defendant does not meet <u>all</u> of conditions specified by § 4C1.1. Specifically, one or more of the following criteria applies:
  - ☐ 1) the defendant has criminal history points from Chapter Four, Part A;
  - ☐ 2) the defendant received an adjustment under U.S.S.G. § 3A1.4 (Terrorism);
  - □ 3) the defendant used violence or credible threats of violence in connection with the offense;



☐ The defendant <u>may be</u> eligible for a sentence reduction and therefore the matter is referred to a United States District Judge.

The presiding judicial officer shall wait for the parties' stipulation of a sentence reduction within fourteen days. If no stipulation is reached within this period, the presiding judicial officer shall wait for the United States Probation Office, defense counsel, and the Government's memoranda, which shall be filed within another fourteen days.

## Reasons:

Benitez was sentenced to 87 months at Offense Level 31, Criminal History Category I. Dkt. 94. Under Amendment 821, his offense level would be lowered to 29, for a new applicable guideline range of 87-108 months. Because he was sentenced equal to the minimum of the new applicable guideline range, he is not eligible for a sentence reduction.

IT IS SO RECOMMENDED.

In San Juan, Puerto Rico, this 29th of May, 2024.

s/Bruce J. McGiverin

UNITED STATES MAGISTRATE JUDGE